



**Council Ward:** Ward 2

**Evaluation Prepared by:** Patti Hart

**Applicant:** AVGLC LLC d/b/a Legends Restaurant

**Owner:** 575 Realty INC

**Parcel #:** 15N11 019A

**Location:** 185 Woodstock Parkway

**Area:** +/-01 .7 ac.

**Request:** Variance from LDO Sec. 7.723 Code Compliance Certificate

**Proposed Use/**

**Purpose:** Full Service Restaurant

**Current Zoning:** DT-GC (Downtown General Commercial)

**Current Land Use:** Vacant – Most recently a restaurant in 2010

**Future Land Use:** CVC Community Village Center

**Surrounding Properties:**

Current Zoning		Current Land Use
North	GC (Rezoned with uses of DT-GC)	Retail - Cherokee Ford Auto Dealership
East	DT-GC	Retail /Office -I575 and Madison retail
South	DT-GC	Retail - Subway/Gas Station
West	DT-GC	Residential & Day Care

**Input Meeting:** May 23, 2013

**DPC Meeting:** June 5, 2013 @ 1:00 PM

**PC Meeting:** July 11, 2013 @ 7:00 PM

**Council Meeting:** July 22, 2013 @ 7:00 PM

**Executive Summary:**

The subject property was developed as a restaurant under General Commercial zoning and rezoned to DT-GC in 2005 with the Downtown Masterplan. The building was most recently occupied by a diner styled restaurant in 2010 but the license was not renewed in 2011 and the property has been vacant since that time. Section 7.723 of the DTMP requires a Code Compliance Certificate be issued which requires the entire site to be brought into compliance with the zoning if any structural changes or modifications are being made to the building. The applicant is proposing façade Improvements but does not wish to redevelop the entire site under the DTMP which would include relocating the building up to the street front.

	<b>Ordinance Requirement</b>	<b>Proposed</b>	<b>Compliance</b>
Min Lot Area	600 Sq Ft	4,640 Sq Ft	Yes
Min Lot Width	20 ft	160 ft	Yes
Street Façade Frontage	60%	N/A	No
Setback	rear 20/ side 0	20/10	Yes
Parking	1/200 gfa 42 spcs	105 spaces	No - Overparked

**Zoning History:**

There is no record of rezoning or variance activity found to be associated with this property since the 2005 Downtown Masterplan Zoning.

**Criteria for Consideration of a Variance Request:**

Woodstock LDO Section 10.160- Variances, provides the following criteria which must be considered as the Planning Commission and City Council review variance requests:

**(a) There are exceptional and extraordinary conditions pertaining to the particular piece of property in question, due to its size, shape or topography.**

The size, shape or topography of the subject property do not create extraordinary conditions for the redevelopment of the property.

**(b) The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.**

The applicant maintains that due to the condition of the existing building, construction is necessary for reasonable economic use of the property. Compliance with the zoning code, which requires moving the existing building up to the street front would create a practical difficulty as the applicant is attempting to improve the existing building façade. Staff agrees with this point but has recommended conditions to require

compliance with certain landscaping and architectural requirements which staff does not consider burdensome.

**(c) Such conditions are peculiar to the particular piece of property involved.**

This property was developed prior to the Downtown Master Plan and has been in poor maintenance even prior to its somewhat recent vacancy. With such a large master plan area it is possible that other properties seeking to make improvements to their aging facades may warrant variance from the Code Compliance Certificate as well. Variances are considered based on conditions unique to the individual property.

**(d) A literal interpretation of this ordinance would deprive the applicants of any rights that others in the same district are allowed.**

A literal interpretation of this ordinance provides for the application for variance from the Code Compliance Certificate for all properties in this district. Variances are granted based on conditions unique to each individual property.

**(e) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this ordinance.**

Relief would not cause any detriment to the public good, and would serve to improve a vacant building which staff views as beneficial to the public good.

**(f) Special circumstances or conditions applying to the building or land or building and land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.**

This particular building is in need of maintenance including façade improvements.

**(g) Granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.**

The business endeavor would not likely be successful without improvements being made to the worn and dated façade on an otherwise structurally sound building. If this variance is not granted the property could conceivably remain vacant until such time that it is demolished and redeveloped in accordance with the downtown Master Plan.

**(h) The condition from which relief or a variance is sought did not result from willful action by the applicant.**

The condition from which the variance is being sought is a result of the implementation of the 2005 Downtown Masterplan and not from willful action by the applicant.

**(i) Authorizing of the variance will not impair adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public**

**safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.**

The applicant seeks this variance in order to proceed with improvements to the building façade which includes the removal of a rusted metal treatment and expansion of outdoor patio area. None of the proposed changes will impair adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety. The improvement to the building should improve established property values within the surrounding areas and should in no other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

**Recommendation:**

At the June 5, 2013 meeting the Development Process Committee vote to approve the applicant s request for a variance to waive LDO Sec. 7.723 Code Compliance Certificate. The variance is granted with exception of the following code sections which must be met;

- 1) The applicant shall screen public parking areas from the street with landscaping in accordance with LDO Sec 7.726#6.
- 2) The applicant shall use materials stipulated in LDO Sec. 7.729#3.
- 3) Any awning or canopy shall be in conformance with LDO Sec 7.729#4.
- 4) The outdoor patio area shall not be enclosed with screen wire or glass as stipulated in LDO Sec. 7.729 #11.
- 5) In accordance with LDO Sec. 7.729#12 porch and arcade columns shall be a minimum width of eight (8) inches.

**Attachments:**

- Zoning Map
- Site Plan
- Site Photos

Site Photos:

